

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEAL ZEA, Individually and on Behalf
of All Other Persons Similarly Situated,
Plaintiffs,

-against-

Case No. 08 CIV 5154

HENRY LIMOUSINE, LTD, HENRY
ZILBERMAN, EXCELSIOR CAR & LIMO,
INC., BIG APPLE CAR, INC., DIAL CAR,
INC., UTOG 2-WAY RADIO, INC.,
SKYLINE CREDIT RIDE, INC.
TEL AVIV CAR & LIMOUSINE SERVICE, INC.,
And John Does #1-10, Jointly & Severally,

Answer to Class Action Complaint
By Utog 2-Way Radio, Inc. with .
Cross-Claims

Defendants

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Defendant Utog 2-Way Radio, Inc. ("UTOG"), by its attorney, Paul P. DeFiore, Esq.,

as and for its Answer to the Complaint, alleges the following upon information and

belief:

ANSWERING PLAINTIFF'S NATURE OF ACTION
ALLEGATIONS

FIRST: Defendant UTOG denies any knowledge or information sufficient to form a
belief as to the truth or falsity of each and every allegation contained in paragraph "1" of
the complaint, except denies each and every allegation as same may relate to Defendant
UTOG.

SECOND: Defendant UTOG denies any knowledge or information sufficient to form
a belief as to the truth or falsity of each and every allegation contained in paragraph "2"
of the complaint, except denies each and every allegation as same may relate to
Defendant UTOG .

ANSWERING PLAINTIFF'S JURISDICTION AND VENUE
ALLEGATIONS

THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraphs “3”, “4”, “5” and “6” of the complaint as same may relate to Defendant UTOG.

ANSWERING PLAINTIFF’S ALLEGATIONS CONCERNING THE
PARTIES HERETO

FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “7” of the complaint.

FIFTH: Defendant UTOG denies each and every allegation contained in paragraph “8” of the complaint as same may relate to Defendant UTOG.

SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “9” of the complaint.

SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “10” of the complaint.

EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “11” of the complaint.

NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “12” of the complaint

TENTH: Defendant UTOG denies any knowledge of information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “13” of

the complaint, except denies each and every allegation as same relates to Defendant UTOG.

ELEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “14” of the complaint

TWELFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “15” of the complaint.

THIRTEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “16” of the complaint

FOURTEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “17” of the complaint

FIFTEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “18” of the complaint

SIXTEENTH; Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “19” of the complaint.

SEVENTEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “20” of the complaint.

EIGHTEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “21” of the complaint.

NINETEENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “22” of the complaint.

TWENTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “23” of the complaint.

TWENTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “24” of the complaint.

TWENTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “25” of the complaint.

TWENTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “26” of the complaint.

TWENTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “27” of the complaint.

TWENTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “28” of the complaint.

:TWENTY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “29” of the complaint.

TWENTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “30” of the complaint.

TWENTY-EIGHTH: Defendant UTOG denies each and every allegation contained in paragraphs “31”, “32”, “33”, “34”, “35” and “36” of the complaint, except admits that defendant UTOG is a corporation organized and existing under the laws of the State of New York, with its principal place of business located in Queens Count, New York: and is licensed under New York City Taxi & Limousine Commission License # B00271 as a Black Car dispatching base.

TWENTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “37” of the complaint.

THIRTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “38” of the complaint.

THIRTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “39” of the complaint..

THIRTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “40” of the Complaint..

THIRTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “41” of the Complaint.

THIRTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “42” of the Complaint.

THIRTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “43” of the Complaint.

THIRTY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “44” of the complaint.

THIRTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “45” of the complaint.

THIRTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “46” of the complaint.

THIRTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “47” of the complaint, except denies each and every allegation contained in paragraph “47” of the complaint which alleges any action or lack of action by individuals associated with the defendant UTOG which would result in liability by such individuals to the plaintiff or liability to any other person similarly situated to the plaintiff.

FORTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “48” of the complaint, except admits that defendant UTOG’S annual gross volume of business is at least \$500,000.00.

FORTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “49” of the complaint, except admits that defendant UTOG has hired and fired employees and retains car service vouchers and credit card receipts.

ANSWERING THE PLAINTIFF’S COLLECTIVE
ACTION ALLEGATIONS

FORTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “50” of the complaint, except denies that defendant UTOG employed the plaintiff or any other member of the putative class as drivers. .

FORTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraphs “51”, “52” and “53” of the complaint.

FORTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “54” and subparagraphs “a” through “h” thereof, except that defendant UTOG denies any inference that may be drawn from subparagraphs “a” through “h” that defendant UTOG employed plaintiff and any other member of the putative class within the meaning of the FLSA and that defendant UTOG violated the FLSA.

FORTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “55” of the complaint.

ANSWERING THE PLAINTIFF’S CLASS ALLEGATIONS

FORTY-SIXTH : Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “57” of the complaint, except that defendant UTOG denies that it employed plaintiff and any other member of the putative class as drivers and in comparable positions with different titles and that defendant UTOG violated the New York Labor Law.

FORTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraphs “58”, “59”, “60”, “61” and “62” of the complaint.

FORTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “63” and subparagraphs “a” through “j” thereof, except that defendant UTOG denies any inference that may be drawn from subparagraphs “a” through “j” that defendant UTOG employed plaintiff and any other member of the putative class within the meaning of the New York Labor Law and that defendant UTOG violated the New York Labor Law.

ANSWERING PLAINTIFF’S STATEMENT OF FACTS

FORTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “64” of the complaint.

FIFTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “65” of the complaint.

FIFTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “66” of the complaint.

FIFTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “67” of the complaint.

FIFTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph

“68” of the complaint, except admits that defendant UTOG opened an account with defendant HENRY for limousine services.

FIFTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “69” of the complaint, except denies that defendant UTOG is an employer of Henry’s drivers pursuant to the FLSA and NYLL.

FIFTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “70” of the complaint.

FIFTY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “71” of the complaint.

FIFTY-SEVENTH: : Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “72” of the complaint.

FIFTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “73” of the complaint, except admits that an illegible universal car service credit card receipt, with the hand written entry “Utog 2Way Radio” is annexed to the complaint as Exhibit “D” and denies that plaintiff was an employee of UTOG.

FIFTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “74” of the complaint.

SIXTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “75” of the complaint.

SIXTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “76” of the complaint.

SIXTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “77” of the complaint, except denies each and every allegation contained in paragraph “77” of the complaint which alleges any action or lack of action by individuals associated with the defendant UTOG which would result in liability by such individuals to the plaintiff or liability to any other person similarly situated to plaintiff.

SIXTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “78” of the complaint, except denies each and every allegation contained in paragraph “78” of the complaint as same relates to defendant UTOG.

SIXTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “79” of the complaint.

SIXTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “80” of the complaint.

SIXTY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “81” of the complaint, except Defendant UTOG denies, upon information and belief, that it ever made payments to plaintiffs or members of the class or was required to make payments to same under any statute or regulation. .

SIXTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “82” of the complaint, except denies that defendant UTOG violated Labor Law Section 196-d.

SIXTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “83” of the complaint. .

SIXTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “84” of the complaint, except Defendant UTOG denies, upon information and belief, that it ever made payments to plaintiffs or members of the class or was required to make payments to same under any statute or regulation. .

SEVENTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “85” of the complaint, except Defendant UTOG denies, upon information and belief, that it ever hired or made payments to plaintiffs or members of the class or was required to follow labor laws with respect to same under any statute or regulation. .

SEVENTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “86” of the complaint, except Defendant UTOG denies, upon information and belief, that it ever hired or made payments to plaintiffs or members of the class or was required to follow labor laws with respect to same under any statute or regulation. .

SEVENTY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “87” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “87” of the complaint as same relates to defendant UTOG.

SEVENTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “88” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “88” of the complaint as same relates to defendant UTOG.. .

SEVENTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “89” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “89” of the complaint as same relates to defendant UTOG.. .

SEVENTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “90” of the complaint..

SEVENTY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “91” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “91” of the complaint as same relates to defendant UTOG.. .

SEVENTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “92” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “92” of the complaint as same relates to defendant UTOG. .

SEVENTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “93” of the complaint, except admits that defendant UTOG employs non-managerial personnel..

SEVENTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “94” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “94” of the complaint as same relates to defendant UTOG. .

EIGHTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “95” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “95” of the complaint as same relates to defendant UTOG. .

EIGHTY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “96” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “96” of the complaint as same relates to defendant UTOG. .

ANSWERING PLAINTIFF’S FIRST CLAIM FOR RELIEF
UNDER FAIR LABOR STANDARDS ACT

EIGHTY-SECOND: Defendant UTOG repeats, reiterates and realleges each and every denial and denial upon information belief previously asserted in defendant UTOG’S answer, as if each were fully set forth at length herein in response to paragraph “97”..

EIGHTY-THIRD: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “98” of the complaint, except Defendant UTOG respectfully refers the issue of what constitutes “interstate commerce” to the trier of fact. . . .

EIGHTY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “99” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “99” of the complaint as same relates to defendant UTOG. .

EIGHTY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “100” of the complaint, except Defendant UTOG admits that it has had gross annual revenues in excess of \$500,000.00. .

EIGHTY-SIXTH: Defendant UTOG admits each and every allegation contained in paragraph “101” of the complaint.

EIGHTY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “102” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “102” of the complaint as same relates to defendant UTOG. .

EIGHTY-EIGHTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “103” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “103” of the complaint as same relates to defendant UTOG.

EIGHTY-NINTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “104” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “104” of the complaint as same relates to defendant UTOG.

NINTIETH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “105” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “105” of the complaint as same relates to defendant UTOG.

NINETY-FIRST: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph

“106” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “106” of the complaint as same relates to defendant UTOG.

NINETY-SECOND: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “107” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “107” of the complaint as same relates to defendant UTOG.

ANSWERING PLAINTIFF’S SECOND CLAIM FOR RELIEF
UNDER NEW YORK STATE LABOR LAW

NINTY-THIRD: Defendant UTOG responds to paragraph “108” of the complaint and repeats, reiterates and realleges each and every denial and denial upon information belief previously asserted in defendant UTOG’S answer, as if each were fully set forth at length herein.

NINETY-FOURTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “109” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “109” of the complaint as same relates to defendant UTOG.

NINETY-FIFTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “110” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “110” of the complaint as same relates to defendant UTOG

NINETY-SIXTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “111” of the complaint as same relates to defendant UTOG.

NINETY-SEVENTH: Defendant UTOG denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in paragraph “112” of the complaint, except Defendant UTOG denies each and every allegation contained in paragraph “112” of the complaint as same relates to defendant UTOG.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

NINETY-EIGHTH: The complaint fails to state a claim upon which relief can be granted as and against the defendant UTOG.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

NINETY-NINTH: Upon information or belief, the instant action fails to meet the criteria for a class action set forth in Federal Rules of Civil Procedure 23 et seq. and the class should not be certified.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

ONE HUNDRED: Upon information and belief, the claims asserted in the complaint on behalf of the class specified therein, are barred in whole or in part by the applicable statutes of limitations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

ONE HUNDRED-ONE: Upon information and belief, plaintiff lacks standing to commence this action against the defendant UTOG under the FLSA.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

ONE HUNDRED-TWO: Upon information and belief, plaintiff lacks standing to commence this action against the defendant UTOG under the New York State Labor Law.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

ONE HUNDRED-THREE: Upon information and belief, plaintiffs are precluded from obtaining equitable relief against defendant UTOG by the doctrines of WAIVER, ESTOPPEL and LACHES.

AS AND FOR DEFENDANT UTOG'S FIRST CROSS-CLAIM
AGAINST DEFENDANTS HENRY LIMOUSINE, LTD. ("HENRY")
AND HENRY ZILBERMAN ("ZILBERMAN")

ONE HUNDRED-FOUR: Defendant UTOG repeats, reiterates and realleges each and every admission, denial and denial upon information and belief previously asserted in paragraphs designated "One" through "One Hundred-Three" of UTOG'S answer, as if each were fully set forth at length herein.

ONE HUNDRED-FIVE: Defendant UTOG'S cross-claims arise out of the transactions or occurrences alleged by plaintiff in the class action complaint herein.

ONE HUNDRED-SIX: Upon information and belief , if the plaintiffs suffered damages as alleged in the class action complaint, then such damages were caused by defendants HENRY and ZILBERMAN, with no actions or lack of action, by the defendant UTOG resulting in any such damages.. If somehow the defendant UTOG is found liable to plaintiffs, then the defendant UTOG is entitled to contribution in whole or in part from co-defendants HENRY and ZILBERMAN, for any such liability. .

AS AND FOR DEFENDANT UTOG'S SECOND CROSS-
CLAIM AS AND AGAINST DEFENDANTS HENRY AND
ZILBERMAN

ONE HUNDRED-SEVEN: : Defendant UTOG repeats, reiterates and realleges each and every admission, denial and denial upon information and belief previously asserted in paragraphs designated "ONE" through "ONE HUNDRED-SIX" of UTOG'S answer, as if each were fully set forth at length herein.

ONE HUNDRED-EIGHT: Upon information and belief, if the plaintiff should recover judgment against defendant UTOG, then defendants HENRY and ZILBERMAN will be liable to defendant UTOG for the full amount of said judgment or on the basis of apportionment of responsibility for the alleged damages, defendant UTOG is entitled to indemnification and judgment over and against the said co-defendants HENRY and ZILBERMAN for all or part of any verdict or judgment which plaintiffs may recover in such amounts as the trier of fact may direct.

WHEREFORE, Defendant UTOG respectfully demands judgment:

- a) Dismissing the complaint as and against the defendant Utog 2-Way Radio, Inc.:
- b) Granting Defendant Utog 2-Way Radio, Inc. judgment on its cross-claims, in the event that it is found liable to plaintiffs and
- c) Such other and further relief as to the Court may seem just and proper.

Dated: Long Island City, New York
July 22, 2008

PAUL P. DE FIORE (PD-3647)
Attorney for Defendant Utog 2-Way Radio, Inc.
25-20 39th Avenue
Long Island City, New York 11101
(718) 943-4803

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

DANIEL ZEA, Individually and on
Behalf of All Other Persons Similarly Situated,
Plaintiffs

08-CIV-5154

-against-
HENRY LIMOUSINE LTD., et. al

Defendants

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CERTIFICATE OF SERVICE VIA ELECTRONIC FILING, ETC.

I hereby certify that on this 23rd day of July, 2008, I filed the foregoing Answer of Utog 2-Way Radio, Inc. to the Class Action Complaint through the district court's CM/ECF system, which caused counsel appearing by electronic means to be served

I further certify that on this 23rd day of July, 2008, I caused a true and correct copy of Utog 2-Way Radio, Inc.'s Answer to the Class Action Complaint to be sent via U.S. Mail, postage prepaid to the following: .

Gottlieb & Associates
Attorneys for Plaintiffs
150 East 18th Street, PHR
New York, NY 10003

Weiss & Associates PC
Attorneys for Henry Limousine, et ano
419 Park Avenue South, 2nd floor
New York, New York 10016

Pike & Pike, PC
Attorneys for Defendants Excelsior,
Big Apple, Dial, Skyline and Tel Aviv
1921 Bellmore Avenue
Bellmore, NY 11710

Dated: Long Island City, New York
July 23, 2008

PAUL P. DE FIORE (PD 3647)
Attorney for Defendant Utog 2-Way Radio, Inc.
25-20 39th Avenue
Long Island City, New York 11101
(718) 943-4803